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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/629,663	07/28/2003	Michael Dennis Erinakes	SLUSUN.00001	6452
7590	08/30/2005		EXAMINER	
Steven B. Leavitt 9914 Waterview Parkway Rowlett, TX 75089				RIVELL, JOHN A
			ART UNIT	PAPER NUMBER
			3753	

DATE MAILED: 08/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/629,663	ERINAKES, MICHAEL DENNIS	
	<b>Examiner</b>	<b>Art Unit</b>	
	John Rivell	3753	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 7/28/03 (application).  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-8, 14-17 and 20 is/are rejected.  
 7) Claim(s) 9-13, 18 and 19 is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 28 July 2003 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>07282003</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____                                    |

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 is rejected under 35 U.S.C. §102 (b) as being anticipated by Bingay.

The patent to Bingay discloses, in the sole figure, a “vent structure for deterring intruder access to a storage tank (5), comprising: a bottom plate (12) for connection to the storage tank (5) wherein the bottom plate (12) has a tank opening (at the connection to pipe 11) to allow gaseous flow between an atmosphere (at 7) in the storage tank (5) and an atmosphere within the vent structure; a cover (17) affixed above and to the bottom plate (12) thereby forming the vent structure housing; a vent opening (at annular port 19) formed through the bottom plate (12) to allow gaseous flow between the vent structure's atmosphere (within cover 17) and an ambient atmosphere surrounding the storage tank (5); and a tortuous pathway (through the mass of absorbent material 21) disposed between the vent opening and the tank opening within the vent structure thereby allowing gaseous communication between the storage tank atmosphere (7) and the ambient atmosphere surrounding the storage tank (5)” as recited in claim 1.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 3, 5, 6, 8, 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bingay in view of Miller.

The patent to Bingay discloses all the claimed features with the exception of having the "tortuous pathway (comprised of) a plurality of baffles" including one extending "upward from the bottom plate" and "downward from the cover".

The patent to Miller discloses that it is known in the art to employ an air vent generally at E, for an enclosure, including a tortuous pathway formed by a plurality of baffles at J, L, and the outer periphery of drum pipe G for the purpose of providing a distinct tortuous fluid pathway following a prescribed course as opposed to the random tortuous pathway through the absorbent material 21 of Bingay, which would permit a more direct path to atmosphere.

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to employ in Bingay a plurality of baffles extending from both the plate 12 and the cover 17 for the purpose of forming a distinct tortuous path of fluid travel permitting a more direct path to atmosphere as recognized by Miller.

Regarding claim 3, in Miller note "first baffle" J, "second baffle" L and "third baffle" at the external periphery of pipe G.

Regarding claim 5, in Miller note "plural openings" at k.

Regarding claim 6, in Miller note "flange" I connecting the plate at the bottom of E to the vented space via pipe C.

Regarding claim 8, in both Bingay and Miller the "tank opening" is "central" and in Miller, it is "encompassed by the third baffle".

Regarding claim 14, in Miller the "vent structure is cylindrical such that the baffles form concentric rings about the tank opening".

Regarding claim 15, in Miller note "flange" I.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bingay in view of Gill.

The patent to Bingay discloses all the claimed features with the exception of having a "screen" located at the opening at annular path 19.

The patent to Gill discloses that it is known in the art to employ a screen at 10 at the openings leading to atmosphere from a tank vent structure for the purpose of preventing particulate mater from entering or leaving the internal tank atmosphere.

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to employ in Bingay a screen at annular opening 19 for the purpose of preventing particulate mater from entering or leaving the internal tank atmosphere as recognized by Gill.

Claim 7 is are rejected under 35 U.S.C. 103(a) as being unpatentable over Bingay in view of Miller as applied to claims 2, 3, 5, 6, 8, 14 and 15 above, further in view of Gill as applied to claim 4 above.

Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bingay in view of Zelch.

The patent to Bingay discloses all the claimed features with the exception of having utility as a water storage tank.

The patent to Zelch discloses that it is known in the art to employ a water storage tank including a vent structure fluidly connected to the top of the tank for the purpose of permitting air circulation and preventing intruder access to the water in the tank.

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to employ the device of Bingay as an air vent structure connected to a water storage tank for the purpose of permitting air circulation and preventing intruder access to the water in the tank as recognized by Zelch.

Claims 17 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bingay in view of Miller as applied to claims 2, 3, 5, 6, 8, 14 and 15 above, further in view of Zelch as applied to claim 16 above.

Claims 9-13, 18 and 19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Rivell whose telephone number is (571) 272-4918. The examiner can normally be reached on Mon.-Thur. from 6:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Mancene can be reached on (571) 272-4930. The fax phone number for the organization where this application or proceeding is assigned is **571-273-8300**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



John Rivell  
Primary Examiner  
Art Unit 3753

j.r.